

1976

Book Reviews

Follow this and additional works at: <https://ir.lawnet.fordham.edu/flr>



Part of the [Law Commons](#)

Recommended Citation

Book Reviews, 44 Fordham L. Rev. 1268 (1976).

Available at: <https://ir.lawnet.fordham.edu/flr/vol44/iss6/10>

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Law Review by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

BOOK REVIEW

Ambrose L. (*Aqua Fortis*) Jordan, Lawyer. By Richard H. Levet. New York: Vantage Press. Pp. 287. \$7.50.

This is a rare and special book that deserves to be read by lawyers and law students alike. *Ambrose L. (Aqua Fortis) Jordan, Lawyer*, is the culmination of years of extraordinary scholarship by Judge Richard H. Levet of the United States District Court for the Southern District of New York. In its major part the book is the biography of a champion advocate who played a dominant role in the New York legal scene from the War of 1812 to the Civil War. The book also presents a fascinating insight into the practice of the law during a time that Professor Charles M. Haar of Harvard Law School has called the "Formative Period" and "The Golden Age of American Law." The book is not limited to the career of Ambrose Jordan, but provides glimpses of other lawyers who were dominant in New York during the first half of the Nineteenth Century, and contains interesting history about New York's upstate communities, and the early years of New York City.

Regrettably, there are probably only a few today who had heard of Ambrose Jordan before the publication of Judge Levet's book. I say regrettably because there is much inspiration, especially for the lawyer and law student, to be received from his career. After reading the book, one wonders how many Ambrose Jordans there have been in the American legal profession who have escaped the attention of later generations. The author quotes a penetrating statement of Judge Charles P. Daly, a contemporary of Jordan's, concerning the ephemeral character of any record of a lawyer's services:

"In most mental pursuits, an opportunity is afforded for achieving something which may remain as a memorial of the life and labors of the mind that created it. The sculptor who works out a statue from a block of marble has the satisfaction of knowing that his efforts are embodied and adequately represented in what he has produced; but the life of a lawyer is usually devoted to attaining results that cease to be of interest when the end is accomplished, and it matters not how great may be his talents, how extensive his learning, or unwearied his industry, unless he has had leisure to compose judicial works, he can leave little behind him that will interest posterity, or which will serve to show of what he was capable. . . . The foreshadowing sagacity that perceives in advance all the probable exigencies of a case, the close attention which suffers nothing to escape, but upon a trial keeps every faculty intent upon the case as it is developed, the cool collectedness which is never disturbed by the unexpected disclosures of evidence, or embarrassed by legal objection, but is able at the instant to meet each emergency, and put the best aspect upon it, the skillful and adroit management of partial, prejudiced, thoughtless or dishonest witnesses, and the power at the close of a trial or upon an argument, of resolving a complicated mass of facts into their due relationship to each other, and of deducing the principles which grow out of the case and by which it must be governed, together with the power of using his learning with nice and discriminating judgment, are the qualities which secure the successful end aimed at in every legal controversy, but are not those which bring down the plaudits of

the multitude. This eminent professional merit, the fruit of strong natural ability, coupled to great industry and experience, has, during the lifetime of its possessor, but a few select admirers; and when he has passed away from the stage of life, there is nothing but their recollections to float him down the stream of time, until he is lost in the mist that finally enshrouds all that is traditional."¹

Fortunately, Judge Levet's work assures that Jordan's labors will not be lost in that mist.

Jordan came to the legal profession in the manner customary for lawyers in the early Nineteenth Century. He clerked in the offices of a number of experienced practitioners, following which he took a pro forma examination, paid a fee, and was admitted. The mode of legal education pursued by Jordan generally included copying documents, running errands, and reading such texts as *Blackstone's* and *Kent's Commentaries*.² Judge Levet quotes Arthur Dean on the pre-1860 lawyer's office:

"[T]he goose quill pen, the pen knife and the sandbox were on each lawyer's table. Papers and files were kept in red or black japanned boxes which were kept in the lawyer's room or in the halls. Each office had some unique factotum who knew the contents of the boxes. The red tape so familiar to old time lawyers gave way to the rubber band only in the early 1870's.

"Pleadings were written in longhand at high, slanting desks at which the writers stood or sat on high stools, and had all to be copied in longhand, or engrossed by one or more clerks in their fine Spencerian hands. Some of the copyists were engrossers who had learned their art in the old country, or, according to legend, old equity pleaders who had fallen under the evil of alcohol."³

Jordan actively practiced from 1812 until 1858—initially in Cooperstown and Hudson, New York, and thereafter in downtown New York City. It is estimated that in 1830 there were 495 lawyers in New York City out of a population of 202,589, or one lawyer for 409 people.⁴ Only one federal judge sat in the City. Law partnerships were few in number, and where they existed the number of partners seldom exceeded two. Generally, one was an

1. Levet, Ambrose L. (Aqua Fortis) Jordan, Lawyer 243-44 (1973) [hereinafter cited as Ambrose Jordan, Lawyer], quoting E.D. Smith Reports (N.Y.) XIV.

2. Ambrose Jordan, Lawyer 23. Law schools were few in number: In 1835 there were only nine in the United States. A law school faculty consisted in the main of one professor. Id. at 23-25. Generally, a seven-year clerkship was a prerequisite for admission to the Bar.

A recent survey counted 181 law schools, of which 148 had been approved by the American Bar Association. The 1971 Lawyer Statistical Report 81-86 (1972). The law schools of North America employ approximately 7,000 individuals as faculty members. Association of American Law Schools, Directory of Law Teachers (1974).

3. Ambrose Jordan, Lawyer 25-26 (footnote omitted), quoting A. Dean, William Nelson Cromwell, 1854-1948, an American Pioneer in Corporation, Comparative and International Law 28, 29 (1957).

4. Ambrose Jordan, Lawyer 77, citing H. Taft, A Century and a Half at the New York Bar 7 (1938). In 1970, New York City had 34,394 lawyers, or one lawyer for each 229 residents. American Bar Foundation, Errata to the 1971 Lawyer Statistical Report (1973).

expert in advocacy; the other did the work of a solicitor. Jordan's various partnerships were in that mold.

His practice covered both civil and criminal trials and appeals. As Judge Levet notes, there were no exclusively criminal lawyers during the early part of the Nineteenth Century, and "[t]he ablest and most distinguished lawyers in New York City gladly accepted retainers in criminal matters whenever they could get them."⁵ Jordan's cases ranged from routine civil actions to the first New York personal injury action against a railroad⁶ and the representation of a man who sued for breach of promise of marriage.⁷

The book recounts Jordan's successes as an advocate in a number of the great cases of the time, including his defense of an editor against a criminal libel suit brought by author James Fenimore Cooper and his defense of anti-rent tenants in Columbia County. His reputation as a lawyer was due in large part to the thoroughness of his preparation and the grace of his delivery. In speaking of his jury language, Jordan said:

"When I went to Cooperstown to commence practice, as I knew I would have at first a good deal of leisure, I bought a copy of Shakespeare and bestowed every moment I had to spare, night and day, to reading that and studying its idiom, wit and manner of clothing ideas. To Shakespeare and the Bible, I owe all that I have in the way of language fitted for a jury."⁸

Jordan's incisive cross-examination "won him the sobriquet of 'Aqua Fortis'—literally, 'strong water,' the name by which alchemists denoted nitric acid."⁹ A newspaper account conveyed the effect of Jordan's style of cross-examination:

"Mr. Jordan with the keenness of a well-trained harrier laid upon his track from his lair until he earthed him in the courtroom, never diverging from the scent but following him and driving him until he could turn neither right nor left."¹⁰

Judge Levet highlights throughout the book the drama of the jury trial during the pre-Civil War period. By numerous examples from Jordan's career, he depicts the spectator interest that the trials of the day offered, and recounts the combativeness displayed by the lawyers, who at times resorted to personal insults, fisticuffs, and the hurling of objects.

The book also details Jordan's remarkable career as a public servant. He was, successively, District Attorney of Otsego County, President (Mayor) of Cooperstown, a member of the New York State Assembly, and a State Senator.¹¹ Jordan served as a delegate to the New York Constitutional

5. Ambrose Jordan, *Lawyer* 77, quoting H. Clinton, *Extraordinary Cases* 8 (1896).

6. *Lincoln v. Saratoga & Schnectady R. Co.*, *New York Daily Express*, Dec. 30, 1837, at 2, col. 1.

7. *Barnard v. Powers*, *New York Morning Herald*, July 10, 1835, at 2, col. 2.

8. Ambrose Jordan, *Lawyer* 47, quoting 2 *Encyclopedia of Contemporary Biography of New York* 191 (1882).

9. Ambrose Jordan, *Lawyer* 114.

10. *Id.* at 230, quoting *New York Herald*, Nov. 10, 1843, at 1, col. 4.

11. Ambrose Jordan, *Lawyer* 50, 55, 145-47. As a member of the Senate, Jordan also served on New York's highest court, the Court of Errors, which until the New York State

Convention of 1846, and concluded his public career as Attorney General of New York State.¹²

In 1976, as we reflect on the history of our country and its institutions, Judge Levet's book offers an excellent way for lawyers to further their understanding of the rich heritage of their profession.

*John D. Feerick**

Constitution of 1846 consisted of the President of the Senate, the Senators, the Chancellor, and Justices of the New York Supreme Court. *Id.* at 147, 159.

12. *Id.* at 150, 155.

* Member of the New York Bar.

